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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,153

09/23/2003

Mark C. Nicely

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12/09/2009

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EXAMINER

DUFFY, DAVID W

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

12/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 10/670,153	Applicant(s) NICELY ET AL.	
	Examiner DAVID DUFFY	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 30-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-8,30-34,43 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/2005; 08/05/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This office action is in response to the amendment filed 11/10/2009 in which applicant withdraws claims 1-8 and 30-34 and adds claims 35-44. Claims 35-44 are pending examination.

Election/Restrictions

2. Newly submitted claims 43 and 44 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims are directed to the setup and registration of gaming devices to form a progressive network which would be classified in class 463/29 and are related but distinct from the original invention of a progressive with equalization of progressive contributions amongst disparate clients.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 43 and 44 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Information Disclosure Statement

3. The information disclosure statements (IDS) submitted on 08/05/2009 and 10/27/2005 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Rejections - 35 USC § 112

4. Claims 35-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 35 includes the limitation “determine a new percentage of the incoming wager amount to be applied to the progressive jackpot, an odds of winning the progressive jackpot, and the new percentage of the incoming wager amount to be applied to the progressive jackpot is equal for the first and second gaming systems”, which, as previously discussed, is incorrect as this would result in a system that does not equalize the contribution amounts to a progressive for different wager amounts. Because the specification and the claims are incorrect one of ordinary skill in the art would not be able to properly make and use the invention for its intended purpose. Applicant is again advised that any attempt to correct the specification or claims will constitute new matter. Claims 36-42 inherit this deficiency by nature of their dependency. Examiner is examining the claims as though they were correct.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 35-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy; Daniel A. (US 5116055 A) in view of Vancura, Olaf et al. (US 20030181231 A1).

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8. In regard to claim 35, Tracy discloses a system for managing a progressive jackpot, comprising: a progressive management device including: an interface (fig 1, element 6); and a progressive engine for maintaining a progressive game (fig 1, element 3), the progressive management device being coupled by the interface to a first gaming system and a second gaming system, the first gaming system including a first set of progressive payout parameters and the second gaming system including a second set of progressive payout parameters that is different from the first set of progressive payout parameters (fig 2), the first set of progressive payout parameters including a percentage of a wager amount to be applied to the progressive jackpot (fig 2, % to JP), the progressive management device operable to 1) receive first incoming wagers from the first gaming system and second incoming wagers from the second gaming system wherein each of the first and second incoming wagers includes an incoming wager amount and wherein a portion of the incoming wager amount is to be applied to the progressive jackpot (3:12-30), 2) determine a new percentage of the incoming wager amount to be applied to the progressive jackpot such that a product of a wager amount necessary to participate in the progressive jackpot, an odds of winning the progressive jackpot, and the new percentage of the incoming wager amount to be applied to the progressive jackpot is equal for the first and second gaming systems and (3) for each of the first incoming wagers comparing the odds of winning the progressive jackpot for the first gaming system to a random number to determine whether the progressive jackpot is won (3:35-38, where the gaming machines determine the outcome for each wager based on a random number and notify the progressive and

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notify the progressive controller). Tracy does not explicitly disclose that the progressive management device controls the generation of numbers to determine winners of the progressive.

9. In related prior art, Olaf discloses that centralizing control reduces the complexity of gaming devices and improves security. One of ordinary skill in the art would recognize the stated advantages of cost savings and improved security when operating a business handling large amounts of money such as those in a progressive jackpot.

10. Therefore it would have been obvious to one skilled in the art at the time of the invention to have modified Tracy in view of Olaf to have used progressive control of the progressive winning determination.

11. In regard to claim 36, Tracy discloses the system of claim 35, the progressive management device further comprising: an analysis engine operable to examine a plurality of gaming systems and progressive payout parameters (fig 1, element 3); and an integrator operable to integrate progressive games having different progressive payout parameters into a single progressive jackpot (fig 1, element 7). Tracy does not explicitly disclose that the parts are included in the progressive controller; however, it would have been obvious to one of ordinary skill in the art that the functionality of the translators may be incorporated into the progressive controller in order to simplify the system and thereby reduce the maintenance required by the system since it is immaterial where the software that performs this function resides.

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12. In regard to claim 37, Tracy discloses the system of claim 35, wherein the progressive management device is coupled to the gaming systems through a network (fig 1).

13. In regard to claims 40 and 41, Tracy discloses the system of claim 35, wherein the progressive management device is operable to provide information on the progressive game to user gaming interfaces in real-time, wherein the information includes a value of the progressive jackpot (3:22-30, the display is updated constantly as wagers are placed.

14. In regard to claim 42, Tracy discloses the system of claim 35, wherein a value of the progressive jackpot is reset when a user attains the progressive jackpot (3:35-41).

15. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy; Daniel A. (US 5116055 A) in view of Vancura, Olaf et al. (US 20030181231 A1) as applied to claim 35, and further in view of Torango; Lawrence J. (US 6241608 B1).

16. In regard to claim 38, Tracy discloses the system of claim 35, but does not explicitly disclose wherein the progressive management device includes a currency conversion device for converting data provided from one of the gaming systems into a predetermined currency in real-time.

17. In related prior art, Torango discloses an international progressive system with real time currency conversion (17:22-43). One skilled in the art would recognize the advantages of a progressive with a large group of players to support large, frequent jackpots and the need to convert different currencies into the local currency.

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18. Therefore it would have been obvious to one skilled in the art at the time of the invention to have modified Tracy in view of Torango to have included real time currency conversion to enable a much larger player base to support large, frequent jackpots.

Response to Arguments

19. Applicant's arguments filed 11/10/2009 have been fully considered but they are not persuasive. Applicant argues that the withdrawn claims should not have been restricted. Examiner disagrees. The original invention presented for examination was that of a progressive system that balanced the odds and contributions of different gaming machines. Applicant's withdrawn claims are directed to the set up, authorization and security configuration of the networked game system that happens to include the progressive game. The inventions in these claims are related but distinct from the originally presented invention and as such have been constructively non-elected. If applicant wishes to pursue the divergent subject matter, a continuation or preferably a continuation-in-part that corrects the deficiencies of the instant application would be advisable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID DUFFY whose telephone number is (571) 272-1574. The examiner can normally be reached on M-F 0830-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. D./
Examiner, Art Unit 3714

/Peter D. Vo/

Supervisory Patent Examiner, Art Unit 3714